

**PROCEEDING BEFORE THE HONORABLE JANE L. CLINE,  
INSURANCE COMMISSIONER OF THE  
STATE OF WEST VIRGINIA**

**IN RE: MARKET CONDUCT EXAMINATION OF  
MUNICIPAL MUTUAL INSURANCE COMPANY  
OF WEST VIRGINIA**

**ADMINISTRATIVE PROCEEDING NUMBER 07-AP-033**

**AGREED ORDER ADOPTING REPORT OF  
MARKET CONDUCT EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES, The Honorable Jane L. Cline, Insurance Commissioner of the State of West Virginia, and issues this Order which adopts the Report of Market Conduct Examination for the examination of Municipal Mutual Insurance Company of West Virginia (hereinafter referred to as MUNICIPAL) for the examination period ending June 30, 2006 based upon the following findings, to wit:

**PARTIES**

1. The Honorable Jane L. Cline the Insurance Commissioner of the State of West Virginia (hereinafter the "Insurance Commissioner") is charged with the duty of administering and enforcing the provisions of Chapter 33 of the West Virginia Code of 1931, as amended.
2. MUNICIPAL is a Farmers' Mutual Fire Insurance Company, incorporated within the State of West Virginia, and authorized by the Insurance Commissioner to transact business in the State of West Virginia as permitted under Chapter 33, Article 22 of the West Virginia Code.
3. MUNICIPAL is additionally authorized to transact property and casualty insurance in the States of Ohio and Pennsylvania.

**FINDINGS OF FACT**

1. A Market Conduct Examination of the methods of doing business of MUNICIPAL for the two and one-half year period ending June 30, 2006, was conducted in

accordance with West Virginia Code Section 33-2-9(c) by examiners duly appointed by the Insurance Commissioner.

2. On May 29, 2007, the examiner filed with the Insurance Commissioner, pursuant to West Virginia Code Section 33-2-9(j)(2), a Report of Market Conduct Examination.

3. On May 29, 2007, a true copy of the Report of Market Conduct Examination (attached hereto as Exhibit A) was sent to MUNICIPAL by certified mail, return receipt requested, and was received by MUNICIPAL on June 4, 2007.

4. On May 29, 2007, MUNICIPAL was notified that, pursuant to West Virginia Code Section 33-2-9(j)(2), it had thirty (30) working days after receipt of the Report of Market Conduct Examination to file a submission or objection with the Insurance Commissioner.

5. On June 6, 2007, MUNICIPAL responded by letter to the Report of Market Conduct Examination and on August 1, further responded in a meeting at the Office of the Insurance Commissioner ("MUNICIPAL's Response"). MUNICIPAL's written Response is attached hereto as Exhibit B.

6. On August 15, 2007 MUNICIPAL responded further through its Counsel, T. Randolph Cox, Esquire attached hereto as Exhibit C.

7. MUNICIPAL's responses did dispute certain facts pertaining to findings, comments, results, observations, or recommendations contained in the Report of Market Conduct Examination.

8. Based on the Company's responses the examiner found it necessary to make minor changes in Report of Market Conduct Examination. The final version dated November 14, 2007 is attached hereto as Exhibit A.

9. The findings contained in the Report of Market Conduct Examination reveal violations of West Virginia Code Sections 33-11-4(10), 33-12-18, 33-12-25(a), 33-12-25(b), and

33-22-8(b) as well as violations of West Virginia Code of State Rules Sections 114-14-5.3 and 114-14-6.1

10. Neither the violations of West Virginia Code Sections 33-11-4(10), 33-12-18 nor the violations of West Virginia Code of State Rule's Sections 114-14-5.3 and 114-14-6.1 occurred with such frequency as to be construed as general business practice of MUNICIPAL.

11. The findings associated with Standard F-23 in Report of Market Conduct Examination, have the potential, after Notice and Hearing, to be violations of West Virginia of West Virginia Code § 33-2-11 .

11. That various non-compliant practices identified in the Report of Market Conduct Examination, including but not limited to, those identified in Standards B-1, D-3, F-23, and F-25 may extend to other jurisdictions.

12. The Insurance Commissioner has determined that the violations of the West Virginia Code and Rule sections referenced in paragraph 9 above were unintentional and inadvertent.

13. By entering into this Agreed Order, MUNICIPAL reserves all rights and defenses regarding liability or responsibility in any proceedings regarding MUNICIPAL other than proceedings, administrative or civil, to enforce this Order.

14. MUNICIPAL waives notice of administrative hearing, any and all rights to any administrative hearing and to judicial review of this matter.

15. Any Finding of Fact that is more properly a Conclusion of Law is hereby adopted as such.

16. In entering into this Agreed Order, MUNICIPAL does not admit that it has violated any provisions of Chapter thirty three or the rules promulgated thereunder, or that it agrees with all of the Findings of Fact or Conclusions of Law or to any liability whatsoever and

enters this agreement solely for the purpose of resolving this matter with the Insurance Commissioner.

### **CONCLUSIONS OF LAW**

1. The Insurance Commissioner has jurisdiction over the subject matter of, and the parties to this proceeding.

2. This proceeding is pursuant to and in accordance with West Virginia Code Section 33-2-9.

3. Certain improper cancellations outlined in Standard F-23 of the Report of Market Conduct Examination are in contradiction to the terms and conditions of MUNICIPAL's Insurance policy and therefore violations of West Virginia Code § 33-2-11

34. Any Conclusion of Law that is more properly a Finding of Fact is hereby incorporated as such.

### **ORDER**

Pursuant to West Virginia Code Section 33-2-9(j)(3)(A), following the review of the Report of Market Conduct Examination, the examination work papers, and MUNICIPAL's Response, the Insurance Commissioner and MUNICIPAL have agreed to enter into this Agreed Order adopting the Report of Market Conduct Examination. The Insurance Commissioner and MUNICIPAL have further agreed to the imposition of an administrative penalty against MUNICIPAL.

It is accordingly AGREED and ORDERED as follows:

The Report of Market Conduct Examination of MUNICIPAL Mutual Insurance Company of West Virginia is hereby ADOPTED and APPROVED by the Insurance Commissioner;

It is further AGREED that MUNICIPAL shall identify each West Virginia policy that it may have improperly cancelled from the period beginning July 1, 2006 through the date of

this order. MUNICIPAL shall notify each such affected policyholder in West Virginia that the company may have improperly cancelled his or her respective policies and shall offer to each such affected policyholders, issuance of a policy of insurance on the same property it had previously cancelled, unless the subject matter of the insurance has substantially changed or the risk has substantially increased in which case MUNICIPAL shall have no obligation to offer a new policy. The offer to insure shall state that it is the policyholder's option whether the offer shall take effect immediately, or upon expiration of the policyholder's current policy. The offer to insure shall be issued on MUNICIPAL's current policy form as of the date of issuance of the new policy, with currently approved premium rates.

It is hereby AGREED that MUNICIPAL may cancel any of its policies for any of the reasons set forth on Exhibit D attached hereto and for such other valid reasons not otherwise set forth in such Exhibit D under the category "occurrence of a change in the risk that substantially increases any hazard insured against after insurance coverage has been issued or renewed" until such time as it replaces its current policy form.

It is AGREED, that within thirty (30) days of the entry date of this AGREED ORDER, MUNICIPAL shall file with the West Virginia Insurance Commissioner, in accordance with West Virginia Code Section 33-2-9(j)(4), affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY.

It is AGREED, within ninety (90) days of the entry date of this AGREED ORDER, the company will determine whether the various non-compliant practices identified in The Report of Market Conduct Examination may have resulted in a substantially similar violation in each jurisdiction in which the Company is authorized to do business.

It is further AGREED, that, within ninety (90) days of the entry date of this, AGREED ORDER, MUNICIPAL shall file with the appropriate regulatory authorities of jurisdictions in which the Company is authorized to do business other than West Virginia Insurance Commissioner, affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report of Market Conduct Examination and a copy of this AGREED ORDER ADOPTING REPORT OF MARKET CONDUCT EXAMINATION, DIRECTING CORRECTIVE ACTION AND ASSESSING PENALTY.

It is ORDERED that, MUNICIPAL shall ensure compliance with the West Virginia Code and the Code of State Rules. MUNICIPAL shall specifically cure those violations and deficiencies identified in the Report of Market Conduct Examination.

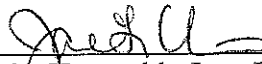
It is FURTHER ORDERED that, MUNICIPAL WILL FILE a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail MUNICIPAL'S changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and incorporate all recommendations of the Insurance Commissioner's examiner and address all violations specifically cited in the Report of Market Conduct Examination. It is expressly understood that MUNICIPAL will file a new policy form with the Commissioner which shall be in conformance with the requirements of Article twenty two, Chapter thirty three of the West Virginia Code and will provide this policy to each of its policyholders upon the renewal date of their current policy. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry of this Agreed Order. MUNICIPAL shall implement reasonable changes to the Corrective Action Plan if suggested by the Insurance Commissioner and the Insurance Commissioner will provide notice to MUNICIPAL when the Corrective Action Plan is disapproved; and

policies and ensure compliance with each jurisdiction's Code and the Code of State Rules and incorporate the recommendations, and address all violations or substantially similar violations specifically cited in the Report of Market Conduct Examination.

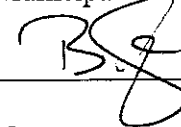
The Insurance Commissioner has determined that MUNICIPAL shall pay an administrative penalty to the State of West Virginia in the amount of Seven Thousand Dollars (\$7,000.00) for non-compliance with the West Virginia Code as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty or remedy, and is due upon execution of this order.

THE PARTIES SO AGREE:  
OFFICE OF THE INSURANCE COMMISSIONER  
FOR THE STATE OF WEST VIRGINIA

Dated this 7<sup>th</sup> day of December, 2007.

  
\_\_\_\_\_  
The Honorable Jane L. Cline  
Insurance Commissioner

Municipal Mutual Insurance Company of West Virginia

  
\_\_\_\_\_  
Name Brian Taylor  
Title Vice President of Claims  
Date 11/29/07

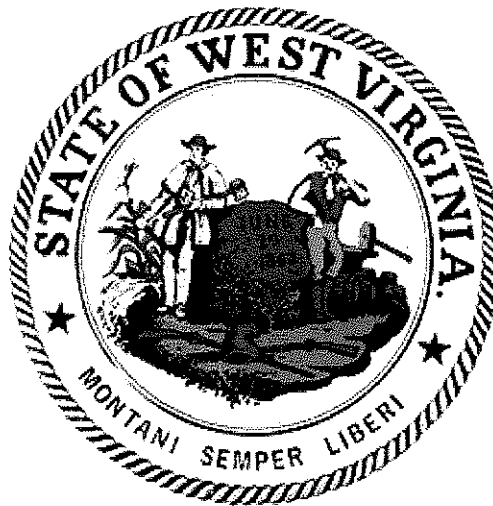
## **EXHIBIT D**

1. Change in occupancy to include but not limited to property becoming vacant or unoccupied
2. Failure to maintain property
3. Total fire loss
4. Addition of metal flue either not present or concealed by the insured at the time of original underwriting the policy
5. Addition of business on premises either not present or concealed by the insured at the time of original underwriting the policy
6. Change in ownership
7. Addition of trampoline ungated pool or other attractive nuisance either not present or concealed by the insured at the time of original underwriting the policy
8. Addition of farm exposure to property either not present or concealed by the insured at the time of original underwriting the policy
9. Mortgage foreclosure
10. Claims or inspection reports which indicate other additional hazards either not present or concealed by the insured at the time of original underwriting the policy



# **Report of Market Conduct Examination**

As of December 31, 2006



## **MUNICIPAL MUTUAL INSURANCE COMPANY OF WEST VIRGINIA**

10<sup>TH</sup> & Charles Street  
Wellsburg, WV 26070

**NAIC COMPANY CODE 14656**  
**Examination Number WV014-M1**

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November 14, 2007

The Honorable Jane L. Cline  
West Virginia Insurance Commissioner  
1124 Smith Street  
Charleston, West Virginia 25301

Dear Commissioner Cline:

Pursuant to your instructions and in accordance with W.Va. Code §33-2-9, an examination has been made as of June 30th, 2006 of the business affairs of

**MUNICIPAL MUTUAL INSURANCE COMPANY OF WEST VIRGINIA**  
10<sup>TH</sup> & Charles Street  
Wellsburg, WV 26070

hereinafter referred to as the "Company." The following report of the findings of this examination is herewith respectfully submitted.

## **PREVIOUS EXAMINATION FINDINGS**

The Pennsylvania Insurance Department conducted a market conduct examination on the Company in February 2006 for the experience period of July 1, 2004 to June 30, 2005. The findings for the examination were as follows:

- Not all producers were licensed and appointed;
- A complete record of all complaints was not maintained;
- Policy cancellation notices were not forwarded timely;
- Cancellation notices did not advise the insured of their rights for review;
- Not all underwriting classifications, rules and rates were filed;
- Untimely investigation of claims;
- Untimely acknowledgement of claims.

## **EXECUTIVE SUMMARY**

This examination is the first market conduct examination of Municipal Mutual Insurance Company of West Virginia by the State of West Virginia. The examination fieldwork began February 5, 2007 and concluded on March 29, 2007. Forty four (44) standards were tested during the examination, the Company passed forty one (41) and failed three (3). Five (5) additional areas warranted a recommendation. The major areas of concern are:

- The Company does not have a formal procedure internal audit procedure
- The Company does not record complaints received directly from consumers;
- The Company does not provide a letter of termination to producers;
- The Company terminated a producer for cause and failed to notify the Commissioner;
- The Company was not cancelling policies in accordance with policy provisions.

Various non-compliant practices were identified, some of which may extend to other jurisdictions. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed.

## **SCOPE OF EXAMINATION**

The basic business areas that were examined under this examination were:

- A. Company Operations and Management
- B. Complaint Handling
- C. Marketing and Sales
- D. Producer Licensing
- E. Policyholder Service
- F. Underwriting and Rating
- G. Claims

Each business area has standards that the examination measured. Some standards have specific statutory guidance, others have specific company guidelines, and yet others have contractual guidelines.

The focus of the examination was on the methods used by the Company to manage its operations for each of the business areas subject to this examination. This includes an analysis of how the Company communicates its instructions and intentions to its lower echelons, how it measures and monitors the results of those communications, and how it reacts to and modifies its communications based on the resulting findings of the measurement and monitoring activities. The examiners also determine whether this process is dynamic and results in enhanced compliance activities. Because of the predictive value of this form of analysis, focus is then made on those areas in which the process used by management does not appear to be achieving appropriate levels of statutory and regulatory compliance. Most areas are tested to see if the Company is in compliance with West Virginia statute and rules.

This examination report is a report by test, rather than a report by exception, and all standards tested are described and the results indicated.

## HISTORY AND PROFILE

Municipal Mutual Insurance Company of West Virginia (hereinafter referred to as the "Company") was incorporated February 16, 1910, under the laws of West Virginia and began business April 1, 1910. In 1991, the Company became authorized to write business in the States of Ohio and Pennsylvania. The Company is authorized to transact business as a Farmer's Mutual Fire Insurance Company under the provisions of Article 22 of the W.Va. Insurance Code. There were no predecessor organizations and the Company is not affiliated with or a member of a group of insurers. The Company mainly writes standard fire insurance, homeowners insurance, mobile homeowners insurance and farm owners insurance.

The Company is governed by a ten member Board of Directors. Directors serving as of December 31, 2006 were as follows:

<b>Name and Address</b>	<b>Business Affiliation</b>	<b>Board Member Since</b>
Harold B. Burech Wheeling, West Virginia 26003	Hazlett, Burt & Watson Bond Broker	2000
Anthony J. Cipriani Wellsburg, West Virginia 26070	Cipriani Realty Owner	2003
Jerry A. Halverson Parkersburg, West Virginia 26104	Wesbanco Bank Retired CEO	1972
Willard Wayne Jobe President Claysville PA 15323	Municipal Mutual President	2006
Dickey Lee Laughlin Wellsburg, West Virginia 26070	Banner Fiber Board Retired CEC	1974
*Edward R. Marks, Jr. Wellsburg, West Virginia 26070	Municipal Mutual Retired President	1983 Mr. Marks retired from the Board effective 7/1/2006
Richard F. McCreary- Treasurer Wellsburg, West Virginia 26070	Brooke Furniture Company Retired Owner	1981
James P. McMullen, Jr. Wellsburg, West Virginia 26070	Retired Attorney	1974
Jon D. Meriwether- Secretary Wellsburg, West Virginia 26070	Merco Marine Owner	2000

David W. Rithner Wellsburg, West Virginia 260070	Brooke Glass Owner	2002
Dr. Thomas Thomas Wheeling, West Virginia 26003	Retired Physician	1980

## METHODOLOGY

This examination is based on the standards and tests for a market conduct examination of a property and casualty insurer found in Chapter VIII of the NAIC Market Conduct Examiners Handbook and on applicable West Virginia statutes and rules.

Some of the standards were measured using a single type of review, while others used a combination or all types of review. The types of review used in this examination fall into three general categories: Generic, Sample, and Electronic.

A "Generic" review indicates that a standard was tested through an analysis of general data gathered by the examiner, or provided by the examinee in response to queries by the examiner.

A "Sample" review indicates that a standard was tested through direct review of a random sample of files selected using automated sampling software. The sampling techniques used are based on ninety-five percent (95%) confidence level with *Poisson* distribution---meaning sample sizes are generally the same without regard to population. For evaluation purposes, an error tolerance level of seven percent (7%) was used for claims and a ten percent (10%) tolerance was used for other types of review.

An "Electronic" review indicates that a standard was tested through use of a computer program or routine applied to a download of computer records provided by the examinee. This type of review typically reviews 100% of the records of a particular type.

Standards were measured using tests designed to adequately measure how the Company met certain benchmarks. The various tests utilized are set forth in the NAIC Market Conduct Examiners Handbook for a property and casualty insurer. Each standard applied is described and the result of testing is provided under the appropriate standard. The standard, its statutory authority under West Virginia law, and its source in the NAIC Market Conduct Examiners Handbook are stated and contained within a bold border.

Each standard is accompanied by a "Comment" describing the purpose or reason for the standard. "Results" are indicated, examiner's "Observations" are noted, and in some cases, a "Recommendation" is made. Comments, Results, Observations and Recommendations are kept with the appropriate standard.



## A. COMPANY OPERATIONS/MANAGEMENT

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to provide a view of what the Company is and how it operates and is not based on sampling techniques, but rather the Company's structure. This review is not intended to duplicate a financial examination review but is important in establishing an understanding of the examinee. Many troubled companies have become so because management has not been structured to adequately recognize and address the problems that can arise. Well-run companies generally have processes that are similar in structure. While these processes vary in detail and effectiveness from company-to-company, the absence of them or the ineffective application of them is often reflected in failure of the various standards tested throughout the examination. The processes usually include:

- A planning function where direction, policy, objectives and goals are formulated;
- An execution or implementation of the planning function elements;
- A measurement function that considers the results of the planning and execution; and
- A reaction function that utilizes the results of measurement to take corrective action or to modify the process to develop more efficient and effective management of its operations.

### Standard A 1

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 1*

**The company has an up-to-date, valid internal or external audit program.**

*W.Va. Code §§ 33-33-3 & 33-33-4*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement as it pertains to annual audited financial statements. A company that has no audit function lacks the ready means to detect structural problems until problems have occurred. A valid internal or external audit function and its use is a key indicator of competency of management which the Commissioner may consider in the review of an insurer.

### **Results: Pass with recommendation**

**Observations:** The Company's financial statements are audited annually in accordance with W.Va. Code §33-3-14; the last such audit was conducted by S.R. Snodgrass, A.C., for the year ending December 31, 2005. The Company's Board of Directors reviews the report on the annual audit and uses the report for the basis of business decisions. The Company has formal no internal audit procedures in place.

**Recommendations:** It is recommended the Company adopt and implement formal internal audit procedures. The procedures should entail audits for claims including all claims submitted by employees and members of the Board of Directors. Additionally,

underwriting files including declined applications and canceled policies should be audited.

**Standard A 2**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 2*

**The company has appropriate controls, safeguards and procedures for protecting the integrity of computer information.**

*W.Va. Code St. R. §114-62-1, et seq.*

**Comments:** The review methodology for this standard is generic. The standard has direct statutory requirement. Appropriate safeguards for protecting the integrity of computer information are a public protection issue. Appropriate controls, safeguards and procedures for protecting the integrity of computer files is an indicator of the competency of management that the Commissioner may consider in the review of an insurer.

**Results: Pass**

**Observations:** The Company's computer records are backed-up and copies are maintained off site. In addition, software and access to hardware is available off premises.

**Recommendations: None**

**Standard A 3**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 3*

**The company has an antifraud plan in place.**

*W.Va. Code §§33-41-1, et seq.*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. Written procedural manuals or guides and antifraud plans should provide sufficient detail to enable employees to perform their functions in accordance with the goals and direction of management. Appropriate antifraud activity is important for asset protection as well as policyholder protection and is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer. Further, the insurer has an affirmative responsibility to report fraudulent activities of which it becomes aware.

**Results: Pass**

**Observations:** All claims are handled or approved by the Vice President of claims. Any potential acts of fraud are reported to the President and to the West Virginia Office of the Commissioner.

**Recommendations: None**

**Standard A 4**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 4*

**The company has a valid disaster recovery plan.**

**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. It is essential that the Company have a formalized disaster recovery plan that will detail procedures for continuing operations in the event of any type of disaster. Appropriate disaster recovery planning is an indicator of the competency of management, which the Commissioner may consider in the review of an insurer.

**Results:** Pass

**Observations:** The Company's computer records are backed up and copies are maintained off site. In the event of a disaster or other hardship, Company records can be accessed remotely.

**Recommendations:** None

<b>Standard A 7</b> <b>Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.</b>	<i>NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 7</i> <i>W.Va. Code St. R. § 114-15-1, et seq.</i>
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**Comments:** The review methodology for this standard is generic. The standard does not have a direct statutory requirement. This standard is intended to assure that an adequate and accessible record exists of the Company's transactions. The focus is on the records and actions considered in a market conduct examination such as, but not limited to, trade practices, claim practices, policy selection and issuance, rating, and complaint handling, etc. Inadequate, disorderly, inconsistent, and inaccessible records can lead to inappropriate rates and other issues, which can provide harm to the public.

**Results:** Pass

**Observations:** Claim files were orderly and all pertinent events could be reconstructed from the documents the Company maintained. Policy files contained all pertinent information from which to make an underwriting decision. Files are retained in accordance with State record retention requirements.

**Recommendations:** None

<b>Standard A 8</b> <b>The company is licensed for the lines of business that are being written.</b>	<i>NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 8</i> <i>W. Va. Code § 33-22-1, et seq.</i>
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**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is intended to assure that the Company operations are in conformance with the Company's certificate of authority.

**Results:** Pass with recommendation

**Observations:** The Company's certificate of authority was reviewed and writings were compared with authorized lines and the NAIC annual statement. The Company writes Homeowners, Mobile Homeowners, Farm and small Commercial type risks. The Company's current forms which are in use were reviewed. Although the ML311 (Farm Employers Liability) has presumably been approved by the Insurance Commissioner, it contains a provision which exceeds the Company's Certificate of Authority. The policy contains coverage for claims that an employee may pursue as a result of an automobile accident. Coverage of incidents arising out of the ownership, and maintenance, of motor vehicles is specifically prohibited by W. Va. Code §33-22-8.

**Recommendations:** It is recommended the Company only write lines of business for which they are licensed.

**Standard A 9**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 9*

**The Company cooperates on a timely basis with examiners performing the examinations.**

*W. Va. Code § 33-2-9 & W. Va. Code St. R. § 114-15-1, et seq.*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is aimed at assuring that the Company is cooperating with the State in the completion of an open and cogent review of the Company's operations in West Virginia. Cooperation with examiners in the conduct of an examination is not only required by statute, it is conducive to completing the examination in a timely fashion and minimizing cost.

**Results: Pass**

**Observations:** The Company was cooperative and the examination proceeded in a cordial atmosphere. Data provided was responsive and timely.

**Recommendations: None**

**Standard A 12**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § A, Standard 12*

**The company has policies and procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers.**

*W. Va. Code St. R. § 114-57-1, et seq.*

**Comments:** The review methodology for this standard is generic. The standard has a direct insurance statutory requirement. This standard is intended to assure that the Company provides adequate protection of information it holds concerning its policyholders and minimizes any improper intrusion into the privacy of applicants and policyholders.

**Results: Pass with recommendation**

**Observations:** The Company does not have formal or written procedures for the management, collection, use and disclosure of information gathered in connection with insurance transactions so as to minimize any improper intrusion into the privacy of applicants and policyholders.

**Recommendations:** It is recommended the Company adopt written procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers. The procedures should include specific procedures for all employees who may handle nonpublic personal information.

## B. COMPLAINT HANDLING

**Comments:** Evaluations of the standards in this business area are based on Company responses to various information requests and the review of complaint files at the Company. In this business area, "complaints" include "grievances." W.Va. Code §33-11-4(10) requires the Company to "...maintain a complete record of all the complaints which it has received since the date of its last examination." The statute also requires that, "This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint," the definition of a complaint is, "...any written communication primarily expressing a grievance."

### Standard B 1

NAIC Market Conduct Examiners Handbook – Chapter VIII, § B, Standard 1

All complaints are recorded in the required format on the company complaint register.

W. Va. Code § 33-11-4(10)

**Comments:** The review methodology for this standard is sample and generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company keeps formal track of complaints or grievances as required by statute. An insurer is required to maintain a complete record of all complaints received. The record must indicate the total number of complaints since the last examination, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint.

**Results:** Pass with recommendations

**Observations:** The Company maintains an electronic log of complaints in accordance with the requirements of the Insurance Commission. The Company registered thirty-three (33) complaints for the exam period. The complaint register contained the nature of the complaint, the line of business and the time required to process the complaint. The Company complaint register was reconciled with the Insurance Commission's register without exception. The Company does not record the disposition of the complaints received. The Company only registers complaints received from the Insurance Commission. The Company does not register complaints received directly from consumers.

Table B1 Complaints Sample Results

Type	Sampled	N/A	Pass	Fail	%Pass
2004-2006 Complaints	33	0	33	0	100%

**Recommendations:** It is recommended the Company record the disposition of each complaint contained in its complaint register as required by W. Va. Code § 33-11-4(10).

It is recommended the Company record all complaints in its complaint register including those received directly from consumers.

**Standard B 2**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § B, Standard 2*

**The company has adequate complaint handling procedures in place and communicates such procedures to policyholders.**

*W. Va. Code § 33-11-4(10) & W. Va. Code St. R. §114-14-5.2*

**Comments:** The review methodology for this standard is generic. The standard has a direct statutory requirement. This standard is concerned with whether the Company has an adequate complaint handling procedure and whether the Company communicates complaint handling procedures to its policyholders.

**Results: Pass**

**Observations:** The Company does not have written complaint handling procedures in place. The Company's procedure is to begin processing complaints within twenty four (24) hours of receipt and to provide a response within fifteen (15) working days as required by W. Va. Code St. R. § 114-14-5.2.

**Recommendations: None**

**Standard B 4**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § B, Standard 4*

**The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-4(10) & W. Va. Code St. R. § 114-14-5.2*

**Comments:** The review methodology for this standard is sample. The standard does not have a direct statutory requirement however, timeliness is inferred. In the case of complaints concerning claims, direct time requirements are found in regulation. This standard is concerned with whether the Company responded to complaints timely. West Virginia's complaint handling section uses a fifteen (15) working day standard for responses to complaints.

**Results: Pass**

**Observations:** The Company responded within four (4) working days to the Insurance Commission for all complaints received during the exam period.

**Table B 4 Complaints Sample Results**

Type	Sampled	N/A	Pass	Fail	%Pass
2004-2006 Complaints	33	0	33	0	100%

**Recommendations: None**

## C. MARKETING AND SALES

**Comments:** The evaluation of standards in this business area is based on a review of Company responses to information requests, questions, interviews, and presentations made to the examiner. This portion of the examination is designed to evaluate the representations made by the Company about its products. It is not typically based on sampling techniques, but can be. The areas to be considered in this kind of review include all media, written and verbal advertising and sales material.

### Standard C 1

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § C, Standard 1*

**All advertising and sales materials are in compliance with applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-4(1), (2) & W. Va. Code St. R. §114-14-1, et seq.*

**Comments:** Review methodology for this standard is sample and generic. The standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with all forms of media (print, radio, television, etc.).

**Results: Pass**

**Observations:** The Company provided a copy of all advertising material used during the exam period. Advertising material included brochures describing the different coverages the Company offers and brochures educating insureds of ways to safeguard their property. The Company also distributed a calendar through their agents.

The Company has a monthly advertisement in the county newspaper. The advertisement only has Company name and telephone number in the advertisement.

The Company does no "invitation to contract" advertising. Specific references or identification of policy benefits, costs, exceptions or limitations are not included in the advertising used by the Company. The advertising material made no unfair or incomplete comparisons with other policies. The advertising materials did not make any false, deceptive or misleading statements or representations

**Recommendations: None**

### Standard C 2

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § C, Standard 2*

**Company internal producer training materials are in compliance with applicable statutes, rules and regulations.**

*W. Va. Code §33-11-4 & W. Va. Code St. R. §114-14-1, et seq.*

**Comments:** Review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentation. It is concerned with training or instructional representations made by the Company to its producers.

**Results: Pass**

**Observations:** The Company has no formal training materials or a manual for producers. Agent training includes direction on the use of underwriting guidelines and policy rating. The Company requires all producer prepared advertising material be approved by the Company prior to use. Training materials were in compliance with statutes and rules. No exceptions were noted.

**Recommendations:** None

**Standard C 3**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § C, Standard 3*

**Company communications to producers are in compliance with applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-4 & W. Va. Code St. R. §114-14-1, et seq.*

**Comments:** Review methodology for this standard is generic and sample. The standard has a direct insurance statutory requirement. This standard is intended to assure compliance with the prohibitions on misrepresentations. It is concerned with representations made by the Company to its producers other than in a training mode.

**Results:** Pass

**Observations:** Communications between the Company and its agents are normally accomplished through bulletins. The examiners reviewed these types of communications including those found in the policy files for adherence to both the West Virginia Unfair Trade Practices Act and the West Virginia Unfair Claims Settlement Practices Act; no exceptions were noted.

**Recommendations:** None

## **D. PRODUCER LICENSING**

**Comments:** The evaluation of standards is based on a review of Insurance Commission records and Company responses to information requests, questions, interviews, and presentations made to the examiners. This portion of the examination is designed to test the Company's compliance with West Virginia producer licensing laws and rules.

**Standard D 1**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § D, Standard 1*

**Company records of licensed and appointed (if applicable) producers agree with department of insurance records.**

*W. Va. Code § 33-12-3 & W. Va. Code St. R. § 114-2-1, et seq.*

**Comments:** This standard has a direct statutory requirement. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed. Such producers are presumed to be qualified, having met the test for such license. W.Va. Code §33-12-3 states, "No person shall in West Virginia act as or hold himself out to be an agent, broker or solicitor nor shall any person in any manner solicit, negotiate, make or procure insurance covering subjects of insurance resident, located or



to be performed in West Virginia, unless then licensed therefore pursuant to this article.” The section further states, “No insurer shall accept any business from any agent who does not then hold an appointment as agent for such insurer pursuant to this article.”

**Results: Pass with recommendation**

**Observations:** The Company’s list of current appointed producers was reconciled with the records of the West Virginia Insurance Commission. Four agents shown as active on the Company agent list were actually not renewed and were shown as terminated by the Insurance Commission. These producers wrote thirty-five (35) new business policies combined.

**Recommendations:** It is recommended the Company adopt and implement a procedure to reconcile their agent list with that maintained by the Insurance Commission at least once a year.

**Standard D 2**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § D, Standard 2.*

The producers are properly licensed and appointed (if required by state law) in the jurisdiction where the application was taken.

*W. Va. Code § 33-12-18*

**Comments:** Review methodology for this standard is sample. This standard has a direct statutory requirement. It is file specific. This standard is aimed at assuring compliance with the requirement that producers be properly licensed and appointed for business solicited in West Virginia. The Company must appoint the producer within fifteen (15) days of the date the producer submits their first application to the Company.

**Results: Pass with recommendation**

**Observations:** The Company utilizes independent agents to market and solicit insurance products in West Virginia. A review of sixty (60) new business policy files determined that three (3) policies were produced by non-appointed agents.

**Table D 2 Producer Licensing Sample Results**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	57	3	95%

**Recommendations:** It is recommended that the Company adopt and implement a procedure to ensure producers writing business for the Company are properly appointed.

**Standard D 3**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § D, Standard 3.*

Termination of producers complies with statutes regarding notification to the producer and notification to the state if applicable.

*W. Va. Code § 33-12-25 & W. Va. Code St. R. §114-2-1, et seq.*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement. It is generally file specific. This standard is aimed at both avoiding

unlicensed placements of insurance as well as ensuring that producers are treated fairly with respect to terminations. W.Va. Code §33-12-25 requires the Company to notify the Commissioner (on a form prescribed by the Commissioner) within thirty (30) days of terminating the producer's authority. The same code section further requires the producer to be notified simultaneously. Furthermore, W.Va. Code §33-12-25 requires the Company to notify the Commissioner if the termination is for cause.

**Results: Fail**

**Observations:** The Company terminated fifty two (52) producers during the exam period. Only two (2) files contained a copy of a termination notification letter to the individual producer as required by W.Va. Code § 33-12-25(d) (1). The Company terminated one (1) producer for cause and failed to notify the Commissioner's Office.

**Table D 3 Producer Terminations Letters**

Type	Population	N/A	Pass	Fail	%Pass
Producer Termination	52	0	2	50	4%

**Recommendations:** It is recommended the Company adopt and implement procedures to notify all producers upon termination in accordance with W.Va. Code §33-12-25.

It is recommended the Company adopt and implement procedures to notify the Commissioner's Office when the producer termination is for cause.

**Standard D 4**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § D, Standard 4.*

The company's policy of producer appointments and terminations does not result in unfair discrimination against policyholders.

*W. Va. Code § 33-11-4(7)*

**Comments:** This standard does not have a direct statutory requirement. It is generally not file specific. This standard is concerned with potential geographical discrimination through the insurer's selection and instructions to its producers. The tests are intended to expose indicators of such practice but may not be conclusive.

**Results: Pass**

**Observations:** The Company's agents can be found throughout the State of West Virginia. No unfair discrimination against policyholders can be inferred by the Company's producer appointment and termination records.

**Recommendations: None**

## E. POLICYHOLDER SERVICE

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, and presentations made to the examiner and file sampling during the examination process. The policyholder service portion of the examination is designed to test a Company's compliance with statutes regarding notice/billing, delays/no response, premium refund and coverage questions.

### Standard E 2

NAIC Market Conduct Examiners Handbook - Chapter XVII, § H, Standard 2

Policy issuance is timely.

**Comments:** Review methodology for this standard is generic and sample. There is no direct statutory requirement. This standard is intended to provide insureds with information in a timely fashion so they can make informed decisions.

**Results:** Pass

**Observations:** A sample of sixty (60) newly issued policy files was reviewed to determine the time required by the Company to issue policies. The date the application was signed by the producer and the date the Company issued the policy were captured. The Company issued the policy within thirty (30) days in fifty eight (58) of the sixty (60) policy files tested.

Table E 2 Policy Holder Service Sample Results

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	58	2	97%

**Recommendations:** None

## F. UNDERWRITING AND RATING

**Comments:** The evaluation of standards in this business area is based on review of Company responses to information requests, questions, interviews, presentations made to the examiner, and file sampling. The underwriting and rating practices portion of the examination is designed to provide a view of how the Company treats the public and whether that treatment is in compliance with applicable statutes, rules and regulations. It is typically determined by testing a random sampling of files and applying various tests to the sampled files. Testing is concerned with compliance issues.

### Standard F 1: Rating Practices

NAIC Market Conduct Examiners Handbook - Chapter VIII, §F, Standard 1

The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the company rating plan.

W. Va. Code § 33-11-4(7) & W. Va. Code § 33-22-9

**Comments:** This standard is not a direct statutory requirement. It is file specific. It is necessary to determine if the Company is in compliance with the rating systems, which have been filed with and approved by the West Virginia Insurance Commission. Although Farmers Mutual Fire Insurance Companies are not required to file rates with the Insurance Commission, rates should not be unfairly discriminatory. Wide scale application of incorrect rates by a company may raise financial solvency questions or be indicative of inadequate management oversight. Deviation from established rating plans may also indicate a company is engaged in unfair competitive practices.

**Results:** Pass

**Observations:** A sample of sixty (60) new issue policy files was reviewed and the premium re-calculated to determine if the Company was following their underwriting guidelines. The Company consistently followed its underwriting and rating guidelines. No exceptions were noted.

**Table F 1 Underwriting and Rating Practices**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations:** None

<b>Standard F 2: Rating Practices</b> <b>Disclosures to insured concerning rates and coverage are accurate and timely.</b> <i>NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 2.</i> <i>W. Va. Code § 33-11-4(7) &amp; W. Va. Code § 33-30-1et seq.</i>
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**Comments:** Review methodology for this standard is sample. This standard does not have a direct insurance statutory requirement. It is necessary to provide insureds with appropriate disclosures, both mandated and reasonable. Without appropriate disclosures, insureds find it difficult to make informed decisions. Concerns tested included accuracy of producer quotations as well as properly executed offers of mine subsidence coverage (Farmers Mutual Fire Insurance Companies may, but are not required to, offer mine subsidence coverage).

**Results:** Pass

**Observations:** A sample of sixty (60) new issue policy files was reviewed to determine if cost of coverage was accurately quoted. Quotations were reasonable and accurate, no exceptions were noted.

**Table F 2 Underwriting and Rating Practices**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations:** None

**Standard F 3: Rating Practices***NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 3.***Company does not permit illegal rebating, commission cutting or inducements.***W. Va. Code § 33-11-4(8)*

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct insurance statutory requirement. It is generally file specific. Illegal rebating, commission cutting or other illegal inducements are a form of unfair discrimination.

**Results: Pass**

**Observations:** A review of sixty (60) new issue policy files as well as the agents' commission files found no evidence of rebating or commission cutting. All agents are paid the same percentage commission on all premiums received by the Company no matter the type of policy or coverage.

**Table F 3 Underwriting and Rating Practices**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations: None**

**Standard F 5: Rating Practices***NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 5***Schedule rating or individual risk premium modification plans, where permitted, are based on objective criteria with usage supported by appropriate documentation.***W. Va. Code § 33-11-4(7)(c)*

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct insurance statutory requirement. Insurers must apply their scheduled credits and deviations on a non-discriminatory basis. Consistency is the key in avoiding the appearance or actuality of unfair discrimination.

**Results: Pass**

**Observations:** A review of the sixty (60) new business policy files did not indicate any deviation from the Company underwriting guidelines.

**Table F 5 Underwriting and Rating Practices**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations: None**

**Standard F 11: Underwriting***NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 11***The company underwriting practices are not unfairly discriminatory. The company adheres to applicable statutes, rules and regulations and company guidelines in the selection of risks.***W. Va. Code § 33-11-4(7)*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct insurance statutory requirement. It is necessary to provide insureds with appropriate protection from unfair discrimination. Inconsistent handling of rating or underwriting practices, including request for supplemental information, even if not intended, can result in unfair discrimination.

**Results:** Pass

**Observations:** A sample of sixty (60) new issue policy files was reviewed and it was determined the Company was selecting risks and assigning rates according to Company guidelines.

**Table F 11 Underwriting Risk Selection**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations:** None

**Standard F 14: Underwriting Practices** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 14. Underwriting, rating and classification are based on adequate information developed at or near inception of the coverage rather than near expiration, or following a claim.

**Comments:** Review methodology for this standard is sample and generic. This standard does not have a direct insurance statutory requirement. In order to properly underwrite property insurance, an insurer is expected to gather accurate information upon submission of the application including perfected applications, photographs, and inspection reports.

**Results:** Pass

**Observations:** A sample of sixty (60) underwriting files was reviewed to determine if underwriting decisions were based on information received at inception of the policy rather than through audits or post claim. The Company uses inspections, photographs, and credit reports to supplement applications. The Company obtained sufficient information to underwrite policies at or near inception; there was no evidence of post claim underwriting.

**Table F 14 Underwriting Information at Inception**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations:** None

**Standard F 15: Underwriting** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 15. File documentation adequately supports decisions made.

**Comments:** Review methodology for this standard is sample. This standard does not have a direct insurance statutory requirement. Proper documentation of files reduces the likelihood of unfair discrimination.

**Results:** Pass

**Observations:** A review of sixty (60) new issue policy files indicated the Company had adequate documentation to support underwriting decisions. Underwriting files contained applications, photographs and inspections. Documentation was sufficient to determine risk and all applications were complete.

**Table F 15 Underwriting File Documentation**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
2004-2006 New Business Policies	1230	60	0	60	0	100%

**Recommendations:** None

**Standard F 19: Underwriting Practices** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 19.  
The company does not engage in collusive or anti-competitive underwriting practices.  
W. Va. Code § 33-11-4(4)

**Comments:** Review methodology for this standard is generic. This standard has a direct insurance statutory requirement. This standard is intended to assure that any practice suggesting anti-competitive behavior is not tolerated. This includes engaging in collusive underwriting practices that may inhibit competition, e. g., entering into an agreement with other companies to divide the market within West Virginia by territory.

**Results:** Pass

**Observations:** A review of the sample of sixty (60) new issue policy files, underwriting guidelines and producer communications did not reveal any evidence of collusive or anti-competitive behavior on the part of the Company. The Company is represented throughout the State by an independent agency system.

**Recommendations:** None

**Standard F 22: Termination Practices** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 22.  
Rejections and declinations are not unfairly discriminatory.  
W. Va. Code § 33-11-4(7) (c)

**Comments:** Review methodology for this standard is generic, sample and electronic. This standard does not have a direct insurance statutory requirement. Farmers' Mutual Fire Insurance Companies are not subject to W.Va. Code §33-17A-6, however they are subject to W.Va. Code §33-11-4(7)(c). Consistent application of the Company's underwriting rules is the primary method used to avoid unfair discrimination.

**Results:** Pass

**Observations:** A sample of sixty (60) declined applications was reviewed to determine if the reason for rejection was valid and not unfairly discriminatory. In addition, the files were reviewed to determine if the rejection reason was properly documented.

The Company declined twenty seven (27) applications because the property or the coverage did not meet underwriting guidelines. The Company declined twenty three (23) applications because poor credit history or financial difficulties were not disclosed on the application. Four (4) applications were declined because the agent was located too far from the insured to service the account. Six applications (6) were withdrawn or not pursued by the applicant.

**Table F 22 Underwriting – Declinations**

Type	Sampled	N/A	Pass	Fail	%Pass
Declined applications	60	0	60	0	100%

**Recommendations:** None

<b>Standard F 23: Termination Practices</b> <b>Cancellation/non-renewal and Declination notices comply with policy provisions and state laws and company guidelines.</b>	<i>NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 23</i> <i>W. Va. Code § 33-11-4(7) (c)</i>
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**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. As a Farmers' Mutual Fire Insurance Company, the Company is not subject to W.Va. Code §33-17A-4(a) and (b). Therefore, the Company has no direct statutory requirement to delineate reasons for declinations or cancellations on their notices.

**Results: Fail**

**Observations:** A sample of sixty (60) Company initiated cancelled policies was reviewed for compliance with W. Va. Code § 33-22-15 and the Company's policy provisions. Although Farmers' Mutual Fire Insurance Companies are not bound by cancellation provisions of W. Va. Code § 33-17A-4 and W. Va. Code § 33-17A-5, the Company has incorporated the provisions of these statutes in its Dwelling Fire, Commercial Fire and Homeowners contracts.

The Company cancelled twenty one (21) policies for reasons not allowed by its policy provisions. Fourteen (14) of these policies were cancelled because the agent appointment was terminated. The remaining seven (7) were cancelled due to claims experience.

**Table F 23 Underwriting-Cancellations**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Cancelled Policies	1018	60	0	39	21	65%

**Recommendations:** It is recommended the Company cancel policies in accordance with policy provisions.



**Standard F 24: Termination Practices** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 24  
Cancellation/non-renewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract.

W. Va. Code § 33-22-15(c)

**Comments:** Review methodology for this standard is sample and electronic. This standard has a direct insurance statutory requirement. W. Va. Code §33-22-15(c) requires Farmers' Mutual Fire Insurance Companies to give each policyholder five (5) days notice of cancellation. Policyholders need sufficient time in the event of a cancellation or non-renewal to replace coverage.

**Results:** Pass

**Observations:** Farm Mutual Fire Insurance Companies are required by statute to give five (5) days notice in order to terminate policies.

When a policy has been in force for sixty (60) days, Company policy endorsements require the Company to give thirty (30) days notice when the policy is either not renewed or cancelled. In cases where policies have been in force for less than sixty (60) days the Company may cancel for any reason with ten (10) days notice.

The Company failed to give thirty (30) days notice for two (2) policies as required by policy provisions. No other exceptions were noted.

Table F 24 Underwriting-Notice of Cancellation

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Cancelled Policies	1018	60	0	58	2	97%

**Recommendations:** None

**Standard F 25: Termination Practices** NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 25.  
Unearned premiums are correctly calculated and returned to appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations.

**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement as Farmers Mutual Fire Insurance Companies are not required to file rates. On the other hand, the Company has a contractual obligation to the policyholder to charge and refund the appropriate premium.

**Results:** Fail

**Observations:** A random sample of sixty (60) terminated policies was reviewed to determine if the Company provided the appropriate refund amount. The review indicated that there was a difference in the effective date of the cancellation notice and the effective date of cancellation that was on the "cancellation declarations page". In forty one (41) of

the terminated policies the date of the cancellation notice was later than the effective date the policy was cancelled in the Company's computer system. The net effect was that in these cases the Company was giving free insurance or the Company was not retaining enough unearned premium causing undue risk.

**Table F 25 Underwriting-Unearned Premium**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
Cancelled Policies	1018	60	0	19	41	32%

**Recommendations:** It is recommended the Company adopt and implement a procedure to ensure the correct cancellation date is included on the cancellation notices sent to insureds.

<b>Standard F 26: Terminations</b> <b>Rescissions are not made for non-material misrepresentation.</b>	<i>NAIC Market Conduct Examiners Handbook – Chapter VIII, §F, Standard 26.</i>
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**Comments:** Review methodology for this standard is sample and electronic. This standard does not have a direct insurance statutory requirement. A large number of rescissions can reflect inadequate underwriting practices.

**Results:** Pass

**Observations:** The Company rescinded three (3) policies for the examination period. One policy was rescinded when the purchase of the home did not go through to closing. Two (2) policies were rescinded when it was discovered the insureds were deceased. Policies were rescinded for proper reasons, no exceptions were noted.

**Recommendations:** None

## G. CLAIMS PRACTICES

**Comments:** The evaluation of standards in this business area is based on Company responses to information items requested by the examiner, discussions with Company staff, electronic testing of claim databases, and file sampling during the examination process. This portion of the examination is designed to provide a view of how the Company treats claimants and whether that treatment is in compliance with applicable statutes and rules.

<b>Standard G 1</b> <b>The initial contact by the company with the claimant is within the required time frame.</b>	<i>NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 1</i> <i>W. Va. Code §33-11-4(9) (b) &amp; W. Va. Code St. R. §114-14-5.3</i>
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**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard derives directly from W.Va. Code §33-11-4(9) (b) which prohibits, "failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies." West Virginia requires responses to claim communications within fifteen (15) working days of receipt of the communication.

**Results: Pass**

**Observations:** Random samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims closed without payment were selected. The samples each included 60 first-party claims and 60 third party claims. The claims were reviewed to determine if the Company made timely contact with claimants. The Company did not evidence timely contact in two (2) closed without payment claims.

**Table G 1 Claims-Initial Contact**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	60	0	100%
Third Party Paid claims	162	60	0	60	0	100%
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	58	2	97%
Totals	3340	240	0	238	2	99%

**Recommendations: None**

**Standard G 2**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 2.*

**Timely investigations are conducted.**

*W. Va. Code §33-11-4(9) (c) & W. Va. Code St. R. § 114-14-6.1*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. West Virginia requires a claim investigation within fifteen (15) working days of receipt of a notice of a claim.

**Results: Pass**

**Observation:** Random samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims closed without payment during the exam period were reviewed to determine if the Company initiated investigations prompt and in accordance with statute. The Company did not evidence timely investigation in two (2) closed without payment claims.

**Table G 2 Claims-Timely Investigation**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	60	0	100%
Third Party Paid claims	162	60	0	60	0	100%
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	58	2	97%
Totals	3340	240	0	238	2	99%

**Recommendations: None**

**Standard G 3****Claims are resolved in a timely manner***NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 3**W. Va. Code §33-11-4(9)(l) & (m) & W. Va. Code St. R. §114-14-6.2, 6.5 & 6.9*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Failure to timely resolve claims can invite “bad faith” actions.

**Results:** Pass

**Observations:** The samples of one hundred twenty (120) paid claims and one hundred twenty (120) closed without payment claims were tested and a time study performed to determine if claims were resolved timely. Resolution time was measured in working days. Resolution time began once the claimant provided all necessary information to investigate and settle the claim. The Company did not evidence timely resolution in one (1) paid claim and two (2) closed without payment claims.

**Table G 3 Claims Resolution**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	59	1	98%
Third Party Paid claims	162	60	0	60	0	100%
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	58	2	97%
Totals	3340	240	0	237	3	99%

**Recommendations:** None

**Standard G 4****The company responds to claim correspondence in a timely manner.***NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 4.**W. Va. Code § 33-11-4(9)(b) & W. Va. Code St. R. §114-14-5*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. This standard derives directly from W. Va. Code §33-11-4(9) (b) which prohibits, “failing to acknowledge and act reasonably upon communication with respect to claims arising under insurance policies.” West Virginia requires responses to claim communications within fifteen (15) working days of receipt of the communication.

**Results:** Pass

**Observations:** The samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims closed without payment were reviewed to determine if the Company promptly responded to correspondence received. The Company did not evidence prompt response to correspondence received in two (2) closed without payment claims.

**Table G 4 Claims Correspondence**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	60	0	100%
Third Party Paid claims	162	60	0	60	0	100%
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	58	2	97%
Totals	3340	240	0	238	2	99%

**Recommendations: None**

**Standard G 5**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 5*

**Claim files are adequately documented.**

*W. Va. Code St. R. § 114-14-3.1*

**Comments:** Review methodology for this standard is generic, sample, and electronic. This standard has a direct statutory requirement. Without adequate documentation, the various time frames required by statute and/or regulation cannot be demonstrated. West Virginia requires that an insurer's claim files shall contain all notes and work papers pertaining to the claim in such detail such that pertinent events and the dates of such events can be reconstructed.

**Results: Pass**

**Observations:** The samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims closed without payment were reviewed to determine if documentation supported the ultimate claim determination. Claim files were orderly and all pertinent events could be reconstructed from the documents the Company maintained. However, the Company did not adequately document two (2) paid claims and two (2) closed without payment claims.

**Table G 3 Claims Resolution**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	58	2	97%
Third Party Paid claims	162	60	0	60	0	100%
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	58	2	97%
Totals	3340	240	0	236	4	98%

**Recommendations: None**

**Standard G 6**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 6*

**Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.**

*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1, et seq.*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement. Concerns tested with this standard include:

- That claim handling meets West Virginia statutes and rules as applied to sales tax payment, correct payees, improper release of claims and proper payment of non-disputed claims.
- That coverage was checked for proper application of deductible or appropriate exclusionary language.
- That appropriate disclosures are given when a claim nears the applicable statute of limitations.

**Results: Pass**

**Observations:** The sample of one hundred twenty (120) paid claims was reviewed and determined to be in accordance with State law and policy provisions including settlement times and settlement amounts.

**Table G 6 Claim Settlement**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	60	0	100%
Third Party Paid claims	162	60	0	60	0	100%
Totals	2074	120	0	120	0	100%

**Recommendations: None**

**Standard G 7**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 7*

**Company uses the reservation of rights and excess of loss letters, when appropriate.**

*W. Va. Code § 33-11-4(9) (e) & W. Va. Code St. R. § 114-14-6. 5*

**Comments:** Review methodology for this standard is sample and generic. This standard has a direct statutory requirement. Concerns tested for this standard include:

- The Company has reason to question coverage and has sent a reservation of rights.
- The Company sends an excess of loss letter when it is apparent that the loss will exceed policy limits.

**Results: Pass**

**Observations:** The samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims closed without payment were reviewed to determine if the Company advised claimants, when necessary, of it's reservation of rights or the potential of a claim being in excess of loss allowed under policy provisions. Claims requiring a reservation of rights letter or an excess of loss letter were referred to and handled by the Company's Vice-President of Claims and General Counsel. The Company issued reservation of rights and excess of loss letters where appropriate, no exceptions were noted.

**Recommendations: None**

**Standard G 8***NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 8***Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.***W. Va. Code § 33-11-4(9) (b)*

**Comments:** Review methodology for this standard is generic and sample. This standard has a direct statutory requirement.

**Results:** Pass

**Observations:** The Company provided nine (9) claim files involving subrogation during the exam period. The Company promptly and accurately refunded deductibles where appropriate. No exceptions were noted.

**Recommendations:** None

**Standard G 9***NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 9.***Company claim forms are appropriate for the type of product.**

**Comments:** Review methodology for this standard is generic and sample. This standard does not have a direct statutory requirement.

**Results:** Pass

**Observations:** The samples of one hundred twenty (120) paid claims and one hundred twenty (120) claims were reviewed and it was determined there were no inappropriate claim forms used.

**Recommendations:** None

**Standard G 11***NAIC Market Conduct Examiners Handbook – Chapter VIII, §G, Standard 11***Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.***W. Va. Code § 33-11-4(9) (e) & (n) & W. Va. Code St. R. § 114-14-6. 3, 6. 4 & 6. 7*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement. Concerns tested for this standard include:

- Denied and closed-without-payment claims are based on policy provisions and comply with West Virginia statutes and regulations.
- Notices of claim denials reference specific policy provisions or exclusions.
- Claimants are provided with a reasonable basis for the denial when required by statute or regulation.

**Results:** Pass

**Observations:** A random sample of one hundred twenty (120) claims that were either denied or closed-without-payment during the examination period was reviewed for the above listed criteria. Forty eight (48) or forty percent of the claims went unpaid because

the claimant did not pursue benefits for various reasons. Sixty (60) claims went unpaid because there was no coverage afforded under the policies. The Company did not provide two (2) claim files and thus provided reasonable basis for denial of benefits in one hundred eighteen (118) of the one hundred and twenty (120) claims sampled.

**Table G 11 Claims Denied or Closed Without Payment**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Claims closed without payment	1178	60	0	60	0	100%
Third Party Claims closed without payment	88	60	0	60	2	97%
Totals	1266	120	0	118	2	98%

**Recommendations: None**

**Standard G 12**

*NAIC Market Conduct Examiners Handbook – Chapter VIII, § G, Standard 12*

**Canceled benefit checks and drafts reflect appropriate claim handling practices.**

*W. Va. Code § 33-11-4(9) & W. Va. Code St. R. § 114-14-1, et seq.*

**Comments:** Review methodology for this standard is electronic and sample. This standard has a direct statutory requirement.

**Results: Pass**

**Observations:** The sample of one hundred and twenty (120) paid claims was reviewed. The concerns tested for this standard include:

- That cancelled benefit checks include the correct payee and are for the correct amount.
- That payment checks do not indicate the payment is “final” when such is not the case.
- That checks or drafts do not purport to release the insurer from total liability when such is not the case.

Checks were in the correct amount and included the correct payee. No exceptions were noted.

**Table G 12 Claims Sample Result**

Type	Population	Sampled	N/A	Pass	Fail	%Pass
First Party Paid claims	1912	60	0	60	0	100%
Third Party Paid claims	162	60	0	60	0	100%
Totals	2074	120	0	120	0	100%

**Recommendations: None**



**Standard G 13***NAIC Market Conduct Examiners Handbook – Chapter VIII, § G, Standard 13*

**Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.**

*W. Va. Code § 33-11-4(9)(g)*

**Comments:** Review methodology for this standard is generic. This standard has a direct statutory requirement although compliance with this standard is usually judgmental rather than objective, especially as it pertains to third party claimants. The primary concern tested was that the Company processes and handles the claim appropriately and does not compel the claimant to institute a lawsuit to effect an appropriate settlement of the claim.

**Results: Pass**

**Observations:** The Company provided nine (9) litigated claim files for the exam period. The claim files were reviewed to determine if the claim handling was problematic or indicated that the handling compelled the claimants to institute litigation in order to collect benefits due under policies, seven (7) of the claims involved third party litigation.

Litigated claim testing did not indicate any problematic claim handling practices. No exceptions were noted.

**Recommendations: None**

## **SUMMARY OF RECOMMENDATIONS**

### **Recommendation A-1**

It is recommended the Company adopt and implement formal internal audit procedures. The procedures should entail audits for claims including all claims submitted by employees and members of the Board of Directors. Additionally, underwriting files including declined applications and canceled policies should be audited.

### **Recommendation A-8**

It is recommended the Company only write lines of business for which they are licensed.

### **Recommendation A-12**

It is recommended the Company adopt written procedures to protect the privacy of nonpublic personal information relating to its customers, former customers and consumers that are not customers. The procedures should include specific procedures for all employees who may handle nonpublic personal information.

### **Recommendation B-1 (a)**

It is recommended that the Company record the disposition of each complaint contained in its complaint register as required by W. Va. Code § 33-11-4(10).

### **Recommendation B-1 (b)**

It is recommended the Company record all complaints in its complaint register including those received directly from consumers.

### **Recommendation D-1**

It is recommended the Company adopt and implement a procedure to reconcile their agent list with that maintained by the Insurance Commission at least once a year.

### **Recommendation D-2**

It is recommended the Company adopt and implement a procedure to ensure producers writing business for the Company are properly appointed.

### **Recommendation D-3 (a)**

It is recommended the Company adopt and implement procedures to notify all producers upon termination in accordance with W.Va. Code §33-12-25.

### **Recommendation D-3 (b)**

It is recommended the Company adopt and implement procedures to notify the Commissioner's Office when the producer termination is for cause.

### **Recommendation F-23**

It is recommended the Company cancel policies in accordance with policy provisions.

**Recommendation F-25**

It is recommended the Company adopt and implement a procedure to ensure the correct cancellation date is included on the cancellation notices sent to insureds.

## EXAMINER'S SIGNATURE AND ACKNOWLEDGMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the course of the examination.

In addition to the undersigned, Timothy R. Nutt, CIE and Charles L. Swanson also participated in the examination.

A handwritten signature in black ink, appearing to read 'M. Hooker', written over a horizontal line.

Mark A. Hooker, AIE, CPCU.  
Examiner-in-Charge

## EXAMINER'S AFFIDAVIT

State of West Virginia

County of Kanawha

### EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN AN EXAMINATION

I, Mark A. Hooker, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Municipal Mutual Insurance Company of West Virginia.
2. I have reviewed the examination work papers and examination report, and the examination of Municipal Mutual Insurance Company of West Virginia was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



Mark A. Hooker, AIE, CPCU  
Examiner in Charge

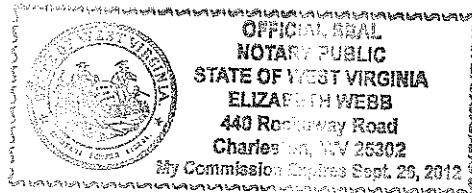
Subscribed and sworn before me by Mark A. Hooker on this 14th day of November, 2007.



Notary Public

My commission expires

Sept. 26, 2012



*Municipal Mutual Insurance Company*

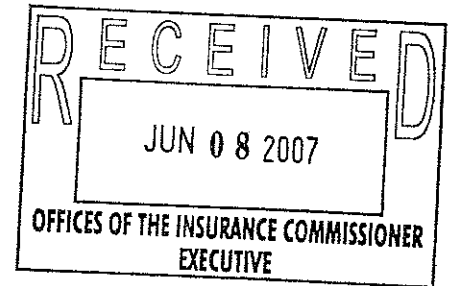
10<sup>th</sup> and Charles Street

Wellsburg, WV 26070

Phone (304) 737-3371 – Fax (304) 737-3391

DATE: 6/6/07

Offices of the Insurance Commissioner  
PO Box 50540  
Charleston, WV 25305  
Attn: Jane Cline



RE: Report of Market Conduct Examination as of June 30<sup>th</sup>, 2006

Ms. Cline,

I have reviewed the above-referenced report and found only two mistakes.

(1) On page 3 under the Board of Directors List: Edward R. Marks, Jr. retired as of 7/1/06; therefore he did not serve on the Board as of December 31, 2006.

(2) On page 1 of the Executive Summary: The report states that the Company does not perform internal audits. The Company actually does perform internal audits on claims, underwriting, and rejected business, but this information is not documented in writing, it is just a daily practice.

Other than the above information, the company does not intend to file any written submissions or rebuttals with respect to the Report of the Market Conduct Examination.

To the contrary, I want to thank you and the Staff for all of their help during this examination and for the courteous, professional manner in which it was conducted.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Taylor", written over the printed name.

Brian Taylor  
Vice-President of Claims



SPILMAN THOMAS & BATTLE, PLLC

ATTORNEYS AT LAW

Direct Dial: (304) 340-3829  
E-mail: [tcox@spilmanlaw.com](mailto:tcox@spilmanlaw.com)

August 15, 2007

Andrew R. Pauley, Esq.  
Associate Counsel  
State of West Virginia  
Offices of the Insurance Commissioner  
1124 Smith Street  
Charleston, WV 25305

**Re: Municipal Mutual Insurance Company of West Virginia  
07-AP-033**

Dear Mr. Pauley:

I am attaching a proposed markup of the Market Conduct Exam and the Agreed Order for your consideration. Our changes to the Market Conduct Exam are minimal and were discussed at our August 1 meeting.

In addition, I have included a copy of the Agreed Order with some proposed changes. Most of the changes are self-explanatory.

There is one area (F23) involving cancellations that we would like for you to reconsider. Municipal does not believe that "agency terminations" and "claims experience" should be treated as improper cancellations. While you may consider them to be improper cancellations under Article 17A, we believe that a different standard should be applied to Farm Mutuals when interpreting what is an increased risk. As you know, Farm Mutuals may cancel a policy after five days notice for any reason. In allowing a Farm Mutual this great latitude for cancellation, the legislature recognized that a "Farm Mutual" has a delicate financial situation and limited staff, and should be able to terminate a risk for any reason in order to maintain solvency. Although Municipal has adopted the ISO forms for cancellation and the language of 17A, Municipal believes that the terms contained in its policy, consistent with article twenty-two, should be liberally construed to allow Municipal to cancel its policies if the risk insured against may be increased for any reason and believes that "agent terminations" and "claims experience" meet this standard.

Regarding termination of agency relationships as a permissible reason for cancellation under the category "substantially increasing the hazard," Municipal believes that the hazard is, in fact, increased if the agency relationship terminates. Municipal operates through independent agents. Municipal places great reliance on its agents to underwrite its risks and to monitor the risks during the term of the policy. Municipal has few employees, and only two that could do the

Andrew R. Pauley  
August 15, 2007  
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work contemplated to be done by its agents. With risks located in three states, it would be impossible for Municipal to monitor all of its risks to determine if there has been any change which might warrant cancellation. This is especially true since Municipal writes throughout West Virginia and it would be almost impossible to monitor all risks on a regular basis without the assistance of local agents. Absent the agent, Municipal believes that the risk has, in fact, increased and that the cancellation is warranted.

Further, Municipal believes that the risk is owned by its agent and that the cancellation of its contract with an agent warrants cancellation of the policy allowing the agent to place the risk with another insurer. This is in fact what typically happens. Regarding reoffering insurance to these insureds, Municipal believes that if it would offer to one of these individuals a replacement policy, it would be competing for that agent's business. This would create problems for Municipal in the marketplace.

The next category of "reasons for cancellation" listed as improper is "claims experience." If a policyholder has an adverse claims experience, Municipal believes that this also clearly suggests an increase in the risk warranting cancellation.

Some other comments about changes:

1. I deleted B1, D1, D2 in paragraph 10 because Municipal passed these standards "with recommendation."
2. I added paragraph 15 because if Municipal is sued, Municipal doesn't want to admit any wrongdoing for purposes of a lawsuit.
3. I changed 33-11-7 to 33-2-11 in the Order and in paragraph 9 because I think that this is a breach of our contract and that Municipal is transacting insurance in an improper manner.
4. I limited the timeframe to reoffer coverage to one year because of the difficulty of going back more than one year.
5. I qualified this obligation (4 above) to not include policies which were terminated for agent termination to avoid the "firestorm" that will occur if Municipal attempts to take this business from its former agents and because Municipal does not believe that this is an improper cancellation.
6. I defined when the new policy form may be issued.





SPILMAN THOMAS & BATTLE, PLLC  
ATTORNEYS AT LAW

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August 15, 2007  
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7. I included proper reasons for cancellation based on an increased risk.

Please feel free to contact me with any questions. I would propose a meeting to finalize this Order.

Very truly yours,

A handwritten signature in cursive script, appearing to read "T. Randolph Cox".

T. Randolph Cox

TRC/ja  
Attach.  
cc: Mark Hooker

495066